

Certification of Consistency

Certification ID: C20194

Step 1 - Agency Profile

A. GOVERNMENT AGENCY:

☒

State Agency

☐

Local Agency

Government Agency: Central Valley Flood Protection Board

Primary Contact: Andrea Buckley

Address: 3310 El Camino Ave, #170

City, State, Zip: Sacrametno, CA 95821

Telephone/Fax: 916-574-0609 /

E-mail Address: andrea.buckley@cvflood.ca.gov

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:

☐

Will Carry Out

☒

Will Approve

☒

Will Fund

Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☐ Plan ☐ Program ☒ Project

Title: American River Watershed Common Features 2016, Sacramento River East Levee Contract 1 Project

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: U.S. Army Corps of Engineers, Sacramento District

Address: 1325 J St

City, State, Zip: Sacramento, CA 95814

C. AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☐ YES ☒ NO ☐ N/A

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

Construct levee improvements to meet embankment and foundation stability requirements. Most of the levee improvements included in the Proposed Action were analyzed in the American River Common Features General Reevaluation Report (ARCF GRR) Environmental Impact Statement/Environmental Impact Report (EIS/EIR). Analysis was supplemented and updated in the Supplemental Environmental Assessment/Environmental Impact Report (EA/EIR) for the Sacramento River East Levee Contract 1 Project and the Supplemental EA/Initial Study (EA/IS) for the Beach/Stone Lakes Mitigation Site. See "Covered Action Summary" in attached Consistency Certification Narrative for a detailed covered action summary. [Consistency Certification Narrative.docx](#)

E. STATUS IN THE CEQA PROCESS: NOD has been filed

F. STATE CLEARINGHOUSE NUMBER: 2005072046
(if applicable)

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 12/1/2019

ANTICIPATED END DATE: (If available) 11/15/2020

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$8,547,000.00

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

J. SUPPORTING DOCUMENTS: [ARCF BSLMS Final MND-signed.pdf](#), [ARCF GRR EIS-EIR MMRP.pdf](#), [ARCF BSLMS Final EA-IS 20190520.pdf](#), [Consistency Certification Narrative.docx](#), [FINAL ARCF GRR EISEIR.pdf](#), [SREL Draft EA-EIR 2019-08-23 FINAL.pdf](#), [SRELIP Alt memo.pdf](#), [Mitigation Measure Comparison.pdf](#)

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 2

G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

Specific requirements of this regulatory policy:

Mitigation Measures (23 CCR SECTION 5002 (b), (2))

G P1(b)(2)/Cal. Code Regs., tit. 23, § 5002, subd. (b)(2) provides that covered actions not exempt from CEQA, must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

a.

Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: Delta Plan Mitigation Measures and with Project-specific Environmental Commitments and/or Mitigation Measures demonstrate compliance with, or effective substitution for, the Delta Plan Mitigation Measures. See attached Mitigation Measure Comparison. [Mitigation Measure Comparison.pdf](#)

Best Available Science (23 CCR SECTION 5002 (b), (3))

The covered action documents use of best available science as relevant to the purpose and nature of the project.

b.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: Proposed Action was designed in accordance with USACE levee engineering standards. See attached Consistency Certification Narrative. [Consistency Certification Narrative.docx](#)

Adaptive Management (23 CCR SECTION 5002 (b), (4))

The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

c.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The proposed project does not include ecosystem restoration or water management.

DELTA PLAN CHAPTER 3

[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: Proposed Action does not export water form, transfer water through, or use water in the Delta.

[WR P2 / 23 CCR SECTION 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: Proposed Action does not involve water supply or water transfer contracts from the SWP or CVP.

DELTA PLAN CHAPTER 4

Conservation Measure: (23 CCR SECTION 5002 (c))

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES ☐ NO ☒ N/A

Answer Justification: The project site is not within an HCP and/or NCCP plan area.

[ER P1 / 23 CCR SECTION 5005](#) - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: Proposed Action does not significantly effect flow in the Delta.

[ER P2 / 23 CCR SECTION 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: Proposed Action does not include ecosystem restoration.

[ER P3 / 23 CCR SECTION 5007](#) - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: This policy covers all Proposed Actions in the priority habitat restoration areas depicted in Figure 4-6 of the Delta Plan. It does not cover actions outside those areas. The project site is not in a priority habitat restoration area.

[ER P4 / 23 CCR SECTION 5008](#) - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: See attached Consistency Certification Narrative. [Consistency Certification Narrative.docx](#)

[ER P5 / 23 CCR SECTION 5009](#) - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

Proposed Action does not include in-water work or effects on aquatic environments. Ground disturbance associated with levee improvements would disturb existing nonnative grassland habitat; disturbed areas would be re-seeded with native species. Please refer to Consistency Certification Narrative and Mitigation Measure Comparison. [Consistency Certification Narrative.docx](#), [Mitigation Measure Comparison.pdf](#)

DELTA PLAN CHAPTER 5

[DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification: Proposed Action does not involve new residential, commercial, or industrial development.

[DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification: See attached Consistency Certification Narrative. [Consistency Certification Narrative.docx](#)

DELTA PLAN CHAPTER 7

[RR P1](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification: The proposed action is located in a 'very high priority' area for levee improvements. See attached Consistency Certification Narrative. [Consistency Certification Narrative.docx](#)

[RR P2](#) - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification: Proposed Action does not include residential development.

[RR P3](#) - Protect Floodways

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification: Proposed Action would not encroach on floodways. [Consistency Certification Narrative.docx](#), [FINAL ARCF GRR EISEIR.pdf](#), [SREL Draft EA-EIR_2019-08-23_FINAL.pdf](#)

[RR P4](#) - Floodplain Protection

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification: Proposed Action would not encroach in floodplain areas. [Consistency Certification Narrative.docx](#), [FINAL ARCF GRR EISEIR.pdf](#), [SREL Draft EA-EIR_2019-08-23_FINAL.pdf](#)